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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,669	05/19/2005	Shinnosuke Torii	03500.018238	7661

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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01/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,669	Applicant(s) TORII, SHINNOSUKE	
	Examiner P. Agustin	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application is a 371 of PCT/JP04/09382, filed June 25, 2004.
2. Claim 3 is currently pending.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 17, 2007 has been entered.

Drawings

4. The drawings are objected to because in Figure 3B, the reference numerals 3 & 4 appear to have been interchanged. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 3, as amended, recites “a thin bridge part provided to the aperture, which is thinner than a cartridge case and located closer to the exterior surface than the recording medium”, which is not supported by the specification as originally filed. Figures 2C & 3C, for example show that the thin bridge part 6a is located closer to the recording medium 1 than any of the exterior surfaces 3 & 4, which is opposite of what is being claimed.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, as amended, recites “a thin bridge part provided to the aperture, which is thinner than a cartridge case and located closer to the exterior surface than the recording medium”,

which is either indefinite or misdescriptive of what is disclosed. Figures 2C & 3C, for example show that the thin bridge part 6a is located closer to the recording medium 1 than any of the exterior surfaces 3 & 4, which is opposite of what is being claimed.

For art rejection purposes, and in light of what is disclosed, the examiner will interpret that the claimed thin bridge part is located closer to the exterior surface than the recording medium is to the exterior surface.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Okamoto (JP 04-141830).

In regard to claim 3, Okamoto discloses an information recording/reproducing device (see Figures 6-8) for at least one of recording information on and reproducing information from a disc-like recording medium (Figures 4 & 5, element 18), comprising: a disc cartridge (17) housing the recording medium (18), with the disc cartridge (17) comprising a case main body (35) having a housing part for housing the recording medium (18), with the housing part having an exterior surface (the bottom surface of the cartridge in Figure 5), an aperture (40) that allows a light beam to enter from an optical pickup (see title) that is provided to at least one principle plane of the case main body, a thin bridge part (34) provided to the aperture, which is thinner than a cartridge case (as shown) and located closer to the exterior surface (the bottom surface)

than the recording medium (as interpreted by the examiner in light of the 112-2nd rejection above, the thin bridge part 34 is located closer to the bottom surface than the recording medium 18 is to the bottom surface), and a shutter (36) for opening and closing the aperture, wherein the recording medium (18) is on a side to be irradiated with the light beam in a state in which the disc cartridge is mounted to an information recording/reproducing device (see Figure 7); a turntable (inherent component where recording medium is to be mounted and which rotates the recording medium) for rotating the recording medium; an optical pickup (see Figure 6; title) that emits a light beam to the recording medium so as to at least one of record and reproduce the information, and which moves to/retracts from the aperture of the disc cartridge (see abstract: “vertically moves the objective lens”, “the objective lens is fixed in a direction getting far from the optical disk”); a mechanism (inherent component that moves the optical pickup) for moving the optical pickup in an in-plane direction of the recording medium (note the wheels in elements 14 & 15), and an objective lens (23) located farther from the exterior surface (in Figure 7, the exterior surface is on the top of the cartridge) than the recording medium (18), wherein in at least one of a case where the recording medium (18) is to be mounted to the turntable together with the disc cartridge (17), and a case where the recording medium (18) is to be removed from the turntable together with the disc cartridge (17), the objective lens (23) is retracted into a position opposite to the thin bridge part of the disc cartridge (see abstract: “loading/unloading of a cartridge”, “vertically moves the objective lens”, “the objective lens is fixed in a direction getting far from the optical disk”).

Response to Arguments

11. Applicant's arguments filed December 17, 2007 have been fully considered but they are not persuasive.

(a) In response to applicant's argument on page 6, last paragraph that Okamoto fails to teach or suggest a thin bridge part that is located closer to an exterior surface of the housing than the recording medium, the applicant is directed to Figure 5, which shows a thin bridge part 34 located closer to the bottom surface of the cartridge (the claimed "exterior surface") as compared to the recording medium 18.

(b) In response to applicant's argument on page 6, last paragraph that Okamoto fails to teach or suggest an objective lens that is retracted into a position opposite to the thin bridge part of the disc cartridge, the applicant is directed to the abstract, which indicates that during loading or unloading of the optical disk, the objective lens is vertically moved away from the optical disk. This vertical movement of the objective lens away from the optical disk satisfies the claimed feature of retracting the objective lens into a position opposite to the thin bridge part.

(c) In response to applicant's argument on page 6, last line through page 7, first line that the objective lens of Okamoto retracts opposite to an aperture 33 and not the thin bridge part 34, the applicant should note that the objective lens retracts away from the entire optical disk, which includes both the aperture and the thin bridge part. As noted in item (b) above, this vertical movement of the objective lens away from the optical disk satisfies the claimed feature of retracting the objective lens into a position opposite to the thin bridge part.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Agustin whose telephone number is 571-272-7567. The examiner can normally be reached on Monday-Thursday 8:30-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peter Vincent Agustin
Peter Vincent Agustin
Patent Examiner
Art Unit 2627